

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY DOBSON,¹

Plaintiff,

-against-

CITY OF NEW YORK, POLICE OFFICERS ALICE T.
MURPHY, TAX REG # 921617 AND ZACARESE and
UNIDENTIFIED NEW YORK CITY POLICE
OFFICERS, EMPLOYEES AND AGENTS,

Defendants.

**ANSWER TO THE
AMENDED COMPLAINT ON
BEHALF OF DEFENDANTS
CITY OF NEW YORK AND
POLICE OFFICER ALICE
MURPHY**

07 CV 9284 (BSJ)(GWG)

Jury Trial Demanded

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Defendants the City of New York (“City”) and Police Officer Alice Murphy, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the amended complaint, respectfully allege, upon information and belief, as follows:²

1. Deny the allegations set forth in paragraph “1” of the amended complaint, except admit that plaintiff purports to invoke the Court’s jurisdiction as stated therein.

2. Deny the allegations set forth in paragraph “2” of the amended complaint, except admit that plaintiff purports to bring this action as stated therein.

3. Deny the allegations set forth in paragraph “3” of the amended complaint, except admit that plaintiff purports to invoke the Court’s jurisdiction as stated therein.

¹ Defendants City and Murphy respectfully note that pursuant to the Notice of Voluntary Dismissal dated March 28, 2008, Maurice Gillard is no longer a plaintiff in this action. Accordingly, defendants City and Murphy’s responses to the amended complaint are limited to the allegations of plaintiff Anthony Dobson.

² On information and belief, the individual identified in the caption of the complaint as Police Officer “Zacarese” has not been served with a copy of the summons and amended complaint in this action, and is therefore not a defendant at this time.

4. Deny the allegations set forth in paragraph “4” of the amended complaint.

5. Deny the allegations set forth in paragraph “5” of the amended complaint, except admit that plaintiff purports to lay venue as stated therein.

6. Deny the allegations set forth in paragraph “6” of the amended complaint.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the amended complaint.

8. Deny the allegations set forth in paragraph “8” of the amended complaint, except admit that the City of New York maintains a police department.

9. Deny the allegations set forth in paragraph “9” of the amended complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning Police Officer “Zacarese” and unidentified persons, and admit that Alice Murphy is employed by the City of New York as a police officer.

10. Deny the allegations set forth in paragraph “10” of the amended complaint, except admit that the City of New York is a municipal corporation.

11. Deny the allegations set forth in paragraph “11” of the amended complaint, except admit that plaintiff purports to bring this action as stated therein.

12. Deny the allegations set forth in paragraph “12” of the amended complaint.

13. Deny the allegations set forth in paragraph “13” of the amended complaint, except deny knowledge or information sufficient to form a belief as to truth the allegations concerning unidentified persons, and admit that on or about October 18, 2005, Anthony Dobson was involved in a traffic stop in which Officer Murphy was present, and that Dobson was subsequently transported to the 113th Precinct.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the amended complaint.

15. In response to paragraph “15” of the amended complaint, defendants City and Murphy repeat and reallege their responses to paragraphs “1” through “14” of their answer, as if fully set forth herein.

16. Deny the allegations set forth in paragraph “16” of the amended complaint.

17. Deny the allegations set forth in paragraph “17” of the amended complaint.

18. Deny the allegations set forth in paragraph “18” of the amended complaint.

19. Deny the allegations set forth in paragraph “19” of the amended complaint.

20. Deny the allegations set forth in paragraph “20” of the amended complaint.

21. Deny the allegations set forth in paragraph “21” of the amended complaint.

22. Deny the allegations set forth in paragraph “22” of the amended complaint.

23. Deny the allegations set forth in paragraph “23” of the amended complaint.

24. Deny the allegations set forth in paragraph “24” of the complaint, except admit that plaintiff purports to seek relief as stated therein.

25. In response to paragraph “25” of the amended complaint, defendants City and Murphy repeat and reallege their responses to paragraphs “1” through “24” of their answer, as if fully set forth herein.

26. Deny the allegations set forth in paragraph “26” of the amended complaint.

27. Deny the allegations set forth in paragraph “27” of the amended complaint.

28. Deny the allegations set forth in paragraph “28” of the amended complaint.

29. Deny the allegations set forth in paragraph “29” of the amended complaint, except admit that plaintiff purports to seek relief as stated therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

30. The amended complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

31. Officer Murphy has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

32. At all times relevant to the acts alleged in the complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

33. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties, and was not the proximate result of any act of the defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

34. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

35. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

36. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations period.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

37. Plaintiff's claims may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

38. Defendants' actions were justified by probable cause.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

39. Pursuant to the Notice of Voluntary Dismissal dated March 28, 2008, Maurice Gillard is no longer a plaintiff in this action.

WHEREFORE, defendants the City of New York and Police Officer Alice Murphy request judgment dismissing the amended complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
April 30, 2008

MICHAEL A. CARDOZO
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By: _____/s/
Bradford C. Patrick
Assistant Corporation Counsel

To: BY ECF
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*Of Counsel: Bradford C. Patrick
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NYCLIS No.2008-036545*

Due and timely service is hereby admitted.

New York, N.Y., 200.....

..... Esq.

Attorney for.....